

## **“GRANDFATHERED” VOTING SYSTEMS REPORT**

**“Grandfathered” Voting Systems including Datavote InkaVote and Mark-A-Vote ballot/card readers, Optech Eagle and IV-C optical scan voting systems and Microcomputer Tally System (MTS), EMS/AERO and BCWin election management systems**

**Prepared by:  
Secretary of State Elections Division  
April 14, 2005**

## Table of Contents

I. Summary.....	3
II. Description of Specific Systems .....	3
III. Voting Systems and HAVA .....	4
III. Public Comment .....	5
VI. Options for Consideration .....	5

## **I. SUMMARY**

There are several voting system components currently certified in California that are not federally qualified. As most of these systems were developed and/or certified before the federally qualification system existed they are commonly referred to as “grandfathered” voting systems.

Some of these systems are due to be phased out before the end of 2005. However, several other certified but unqualified voting systems have vendors and/or counties still interested in using these systems in the future. These vendors and counties have thus inquired about the long-term status of these systems. Specifically, two questions have been raised:

- 1) Whether decertification of these systems might be considered at some future date?
- 2) If a modification of these systems was requested as some future date, would federal qualification be required before said modifications would be considered for certification?

As to decertification, there are currently no proposals before the Voting Systems and Procedures Panel for such action towards any currently certified system. With respect to certification of future modifications to these “grandfathered” systems, there is currently no established practice. Such modifications have been handled on a case-by-case basis in the past.

## **II. DESCRIPTION OF SPECIFIC SYSTEMS**

There are several different “grandfathered” voting system components in use in California. Below is a description of each.

1. Mark-A-Vote optical scan ballot/card readers: This system is supported by DFM. This system is currently used in eight counties (Butte, Contra Costa, Lake, Madera, Riverside, Santa Cruz, Sonoma and Sutter). An interest has been expressed in continuing to use this system beyond 2005.
2. BCWin election management system: This system is from DFM and is used to support both Datavote and Mark-A-Vote ballot/card readers. This system is currently used in ten counties (Butte, Contra Costa, Lake, Madera, Riverside, Santa Cruz, Sonoma, Sutter, Ventura and

Yuba). An interest has been expressed in continuing to use this system beyond 2005.

3. Datavote punchcard ballot/card readers: These readers come from several different manufacturers and come in several different versions differentiated primarily by their speed. Most of the certifications for these readers date from the 1970's. There is no firmware version associated with these readers. These are used in twelve counties (Alpine, Calaveras, Del Norte, El Dorado, Glenn, Imperial, Inyo, San Benito, Sierra, Ventura, Yolo and Yuba). The Secretary of State currently expects this component to be phased out by the end of 2005.
4. Advanced Ballot Count election management system: This system is from DIMS and is used to support Datavote ballot/card readers. This system is currently used in two counties (El Dorado and Yolo. The Secretary of State currently expects this component to be phased out by the end of 2005.
5. Teamwork election management system: This system is from Sequoia and is used to support Datavote ballot/card readers. This system is currently used in eight counties (Alpine, Calaveras, Del Norte, Glenn, Imperial, Inyo, San Benito and Sierra). The Secretary of State currently expects this component to be phased out by the end of 2005.
6. InkaVote optical scan ballot/card readers: The readers are manufactured by LRC. They are used only in Los Angeles County. An interest has been expressed in continuing to use this system beyond 2005.
7. Microcomputer Tally System (MTS) election management system: Part of the InkaVote voting system. Only used in Los Angeles County. An interest has been expressed in continuing to use this system beyond 2005.
8. Optech Eagle optical scan voting system: This system is from ES&S. (Sequoia markets a different version of the Optech IV-C that is federally qualified.)). This system is currently used in three counties (Amador, San Francisco and San Mateo). The vendor is expected to submit by April 15, 2005, a long-term plan for use of this system.

9. Optech IV-C optical scan voting system: This system is from ES&S. (Sequoia markets a different version of the Optech IV-C that is federally qualified.) This system is currently used in two counties (San Francisco and San Mateo). The vendor is expected to submit by April 15, 2005, a long-term plan for use of this system.
10. EMS/AERO election management system: This system is from ES&S and is used to support Optech voting systems. (Sequoia markets a different version of the Optech IV-C that is federally qualified.)). This system is currently used in one county (Amador). The vendor is expected to submit by April 15, 2005, a long-term plan for use of this system.

### **III. VOTING SYSTEMS AND HAVA**

None of these voting systems are designed to meet all of the requirements of HAVA. As such, if these systems are continued to be used, they would all need to be supplemented with at least one additional voting system component.

### **IV. PUBLIC COMMENT**

In response to our public notice of this meeting we have received a number of comments that the authors addressed to this issue, but actually focused on issues related to the requirement that DREs have an AVVPAT in California. Because they are not relevant to this topic, these comments have been included under other business.

### **V. POTENTIAL OPTIONS**

There are several options available with respect to “grandfathered” voting systems.

1. Continue current practice of treating application for certification of unqualified systems on a case-by-case basis.

2. Allow currently certified systems to continue to be used but require that if there are any future changes to these systems, the modified systems must be federally qualified.
3. Decertify one or more of these systems at some future date unless federal qualification has been obtained by that time. [NOTE: EC§19222 provides that six months' notice shall be given before withdrawing approval of a voting system. Further, the code specifies that any withdrawal of approval shall not be effective as to any election conducted within six months of that withdrawal.